

Alison K. Hurley, State Bar No. 234042  
ahurley@bremerwhyte.com  
Tiffany L. Bacon, State Bar No. 292426  
tbacon@bremerwhyte.com  
BREMER WHYTE BROWN & O'MEARA LLP  
20320 S.W. Birch Street  
Second Floor  
Newport Beach, California 92660  
Telephone: (949) 221-1000  
Facsimile: (949) 221-1001  
Attorneys for Defendants,  
FRANK FERRARA and CHARLIE FERRARA

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

CORY SPENCER, an individual; DIANA  
MILENA REED, an individual; and  
COASTAL PROTECTION RANGERS,  
INC., a California non-profit public  
benefit corporation,

Plaintiff,

vs.

LUNADA BAY BOYS; THE  
INDIVIDUAL MEMBERS OF THE  
LUNADA BAY BOYS, including but not  
limited to SANG LEE, BRANT  
BLAKEMAN, ALAN JOHNSTON AKA  
JALIAN JOHNSTON, MICHAEL RAE  
PAPAYANS, ANGELO FERRARA,  
FRANK FERRARA, CHARLIE  
FERRARA; CITY OF PALOS VERDES  
ESTATES; CHIEF OF POLICE JEFF  
KEPLEY, in his representative capacity;  
and DOES 1-10,

Defendants.

Case No. 2:16-cv-2129

Judge: Hon. S. James Otero  
Dept: Courtroom 10C

Magistrate Judge:  
Hon. Rozella A. Oliver

**STATEMENT OF  
UNCONTROVERTED FACTS  
AND CONCLUSIONS OF LAW IN  
SUPPORT OF FRANK  
FERRARA'S MOTION FOR  
SUMMARY JUDGMENT OR, IN  
THE ALTERNATIVE, PARTIAL  
SUMMARY JUDGMENT**

*[Filed concurrently with Notice of  
Motion; Memorandum of Points and  
Authorities; Request for Judicial  
Notice of Adjudicative Facts;  
Declaration of Tiffany Bacon; Notices  
of Lodging; proposed Statement of  
Uncontroverted Facts and Conclusions  
of Law and [Proposed] Judgment  
lodged herewith]*

Date: August 21, 2017  
Time: 10:00 a.m.  
Dept: Courtroom 10C

Complaint Filed: March 29, 2016  
Trial Date: November 7, 2017

**STATEMENT OF UNCONTROVERTED FACTS AND  
CONCLUSIONS OF LAW IN SUPPORT OF DEFENDANT FRANK  
FERRARA’S (hereinafter “Frank Ferrara” or “Defendant”) MOTION FOR  
SUMMARY JUDGMENT AGAINST PLAINTIFFS, CORY SPENCER  
 (“Spencer”), DIANA MILENA REED (“Reed”) and COASTAL  
PROTECTION RANGERS, INC. (“CPR”) (collectively, “Plaintiffs”):**

**ISSUE 1:** Defendant is entitled to Summary Judgment on all of Plaintiffs’  
claims, including Bane Act, Public Nuisance, Assault, Battery, and Negligence, as  
Plaintiffs’ claims are without merit.

<b>DEFENDANT’S UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW</b>	<b>EVIDENCE IN SUPPORT OF UNCONTROVERTED FACTS</b>
1. Frank Ferrara is the father of Defendant Charlie Ferrara.	Declaration of Tiffany Bacon (“Bacon Decl.”), Ex. L (hereinafter “F. Ferrara Dep.”) at 22:21-23:2.
2. Frank Ferrara is the brother of Defendant Angelo Ferrara and the uncle of Defendant N.F. and non-party Leo Ferrara.	F. Ferrara Dep. at 21:23-21:25; Bacon Decl., Ex. R (hereinafter C. Ferrara Dep.”) at 18:2-18:19.
3. Frank Ferrara has never met or come into contact with Plaintiff Spencer or Plaintiff Reed.	F. Ferrara Dep. at 213:9-213:20.
4. Prior to January of 2016, Plaintiff Spencer never surfed at Lunada Bay.	Bacon Decl., Ex. M (hereinafter “Spencer Dep.”) at 62:15-62:22.
5. Plaintiff Spencer is unable to distinguish one member of the Ferrara family from the next.	Spencer Dep. at 219:9-219:20.

1	<b>DEFENDANT'S</b>	<b>EVIDENCE IN SUPPORT OF</b>
2	<b>UNCONTROVERTED FACTS AND</b>	<b>UNCONTROVERTED FACTS</b>
3	<b>CONCLUSIONS OF LAW</b>	
4	6. Plaintiff Spencer has never interacted	Bacon Decl., Ex. M and Q; RJN, Ex. H.
5	with Frank Ferrara.	
6	7. Plaintiff Reed never surfed at Lunada	Bacon Decl., Ex. N (hereinafter "Reed
7	Bay prior to January 2016.	Dep.") at 104:7-105:6.
8	8. Plaintiff Reed has never interacted	Bacon Decl., Ex. N and Q; RJN, Ex. I.
9	with Frank Ferrara.	
10	9. With respect to members of the	Bacon Decl., Ex. O ("Claypool Dep.") at
11	Ferrara family, Ken Claypool has only	50:16-51:16.
12	interacted with Frank Ferrara, Senior (the	
13	father of Moving Party Frank Ferrara)	
14	and Defendant Angelo Ferrara.	
15	10. Mr. Claypool did not identify	Claypool Dep. at 88:3-88:7.
16	Moving Party Frank Ferrara as one of the	
17	"Lunada Bay Boys."	
18	11. Jim Russi has no knowledge of	Bacon Decl., Ex. P (hereinafter "Russi
19	Frank Ferrara engaging in any wrongful	Decl.>").
20	conduct at or near Lunada Bay nor Frank	
21	Ferrara being involved in any illegal	
22	activity at or near Lunada Bay.	
23	12. Plaintiffs have not provided a single	Bacon Decl., Ex. Q.
24	discovery response tying any action or	
25	inaction of Frank Ferrara to any of the	
26	Plaintiffs' claimed damages in this case.	
27	13. Defendant Sang Lee has never had	Bacon Decl., Ex. S ("Lee Dep.") at
28		

1	<b>DEFENDANT'S</b>	<b>EVIDENCE IN SUPPORT OF</b>
2	<b>UNCONTROVERTED FACTS AND</b>	<b>UNCONTROVERTED FACTS</b>
3	<b>CONCLUSIONS OF LAW</b>	
4	any communications with Frank Ferrara	294:14-295:5; F. Ferrara Dep. at 275:16-
5	about how to behave at Lunada Bay, or	276:23.
6	any communications about preventing	
7	people from visiting Lunada Bay, or any	
8	communications about preventing	
9	persons from surfing Lunada Bay.	
10	14. Defendant Sang Lee has never	Lee Dep. at 295:20-295:25.
11	witnessed Frank Ferrara attempting to	
12	prevent any person from visiting or	
13	surfing Lunada Bay.	

14  
15 Alternatively, Frank Ferrara requests partial summary judgment on the  
16 following causes of action Only:

17 **ISSUE 2:** Defendant is entitled to Partial Summary Judgment on Plaintiffs'  
18 First Cause of Action for Bane Act, as Plaintiffs' claim is without merit.

19	<b>UNCONTROVERTED FACTS AND</b>	<b>SUPPORTING EVIDENCE IN</b>
20	<b>CONCLUSIONS OF LAW</b>	<b>SUPPORT OF UNCONTROVERTED</b>
21		<b>FACTS</b>
22	Frank Ferrara incorporates	Frank Ferrara incorporates Supporting
23	Uncontroverted Facts and Conclusions of	Evidence to Uncontroverted Facts and
24	Law Nos. 1 through 14 by this reference	Conclusions of Law Nos. 1 through 14
25	as though fully set forth herein.	by this reference as though fully set forth
26		herein.

1           **ISSUE 3:** Defendant is entitled to Partial Summary Judgment on Plaintiffs'  
2 Second Cause of Action for Public Nuisance, as Plaintiffs' claim is without merit.

3 <b>UNCONTROVERTED FACTS AND</b>	<b>SUPPORTING EVIDENCE IN</b>
4 <b>CONCLUSIONS OF LAW</b>	<b>SUPPORT OF UNCONTROVERTED</b>
5	<b>FACTS</b>
6 Frank Ferrara incorporates	Frank Ferrara incorporates Supporting
7 Uncontroverted Facts and Conclusions of	Evidence to Uncontroverted Facts and
8 Law Nos. 1 through 14 by this reference	Conclusions of Law Nos. 1 through 14
9 as though fully set forth herein.	by this reference as though fully set forth
10	herein.

11  
12           **ISSUE 4:** Defendant is entitled to Partial Summary Judgment on Plaintiffs'  
13 Sixth Cause of Action for Assault, as Plaintiffs' claim is without merit.

14 <b>UNCONTROVERTED FACTS AND</b>	<b>SUPPORTING EVIDENCE IN</b>
15 <b>CONCLUSIONS OF LAW</b>	<b>SUPPORT OF UNCONTROVERTED</b>
16	<b>FACTS</b>
17 Frank Ferrara incorporates	Frank Ferrara incorporates Supporting
18 Uncontroverted Facts and Conclusions of	Evidence to Uncontroverted Facts and
19 Law Nos. 1 through 14 by this reference	Conclusions of Law Nos. 1 through 14
20 as though fully set forth herein.	by this reference as though fully set forth
21	herein.

22  
23 ///

24 ///

25 ///

26 ///

27 ///

28



1        **ISSUE 5:** Defendant is entitled to Partial Summary Judgment on Plaintiffs'  
2 Seventh Cause of Action for Battery, as Plaintiffs' claim is without merit.

3 <b>UNCONTROVERTED FACTS AND</b>	5 <b>SUPPORTING EVIDENCE IN</b>
4 <b>CONCLUSIONS OF LAW</b>	6 <b>SUPPORT OF UNCONTROVERTED</b>
7    Frank Ferrara incorporates	7    Frank Ferrara incorporates Supporting
8    Uncontroverted Facts and Conclusions of	8    Evidence to Uncontroverted Facts and
9    Law Nos. 1 through 14 by this reference	9    Conclusions of Law Nos. 1 through 14
10   as though fully set forth herein.	10   by this reference as though fully set forth
	11   herein.

11  
12 Dated: July 24, 2017

BREMER WHYTE BROWN & O'MEARA  
LLP

13  
14  
15 By: 

16    Alison K. Hurley  
17    Tiffany L. Bacon  
18    Attorneys for Defendants  
19    FRANK FERRARA and CHARLIE  
20    FERRARA  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 20320 S.W. Birch Street, Second Floor, Newport Beach, California 92660.

On July 24, 2017, I served the within document(s) described as:

STATEMENT OF UNCONTROVERTED FACTS AND CONCLUSIONS OF LAW IN SUPPORT OF FRANK FERRARA'S MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, PARTIAL SUMMARY JUDGMENT

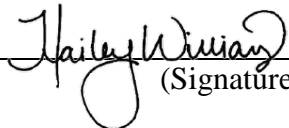
on the interested parties in this action as stated on the attached mailing list.

☒ (BY ELECTRONIC SERVICE) Complying with Code of Civil Procedure § 1010, I caused such document(s) to be Electronically Filed and Served through the \_for the above-entitled case. Upon completion of transmission of said document(s), a filing receipt is issued to the filing party acknowledging receipt, filing and service by 's system. A copy of the [Email receipt System] filing receipt page will be maintained with the original document(s) in our office.

Executed on July 24, 2017, at Newport Beach, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Hailey Williams  
(Type or print name)

  
(Signature)

**Cory Spencer v. Lunada Bay Boys et al.,**

**Case No. 2:16-cv-2129-SJO**

**BWB&O CLIENT: Frank and Charlie Ferrara**  
**BWB&O FILE NO.: 1178.176**

**SERVICE LIST**

<p>Samantha Wolff, Esq.  <b>HANSON BRIDGETT</b>  425 Market Street  26th Floor  San Francisco, CA 94105  (415) 777-3200  (415) 541-9366 Fax  Attorneys For <b>PLAINTIFF</b></p> <p><a href="mailto:swolff@hansonbridgett.com">swolff@hansonbridgett.com</a>  <a href="mailto:kfranklin@hansonbridgett.com">kfranklin@hansonbridgett.com</a></p>	<p>Tyson M. Shower, Esq.  <b>HANSON BRIDGETT</b>  500 Capitol Mall  Suite 1500  Sacramento, CA 95814  (916) 442-3333  (916) 442-2348 Fax  Attorneys For <b>PLAINTIFFS</b></p> <p><a href="mailto:tshower@hansonbridgett.com">tshower@hansonbridgett.com</a></p>	<p>Victor Otten, Esq.  <b>OTTEN LAW, PC</b>  3620 Pacific Coast Highway  Suite 100  Torrance, CA 90505  (310) 378-8533  (310) 347-4225 Fax  Attorneys For <b>PLAINTIFFS</b></p> <p><a href="mailto:vic@ottenlawpc.com">vic@ottenlawpc.com</a></p>
<p>Jacob Song, Esq.  <b>KUTAK ROCK LLP</b>  5 Park Plaza  Suite 1500  Irvine, CA 92614  (949) 417-0999  (949) 417-5639  Attorney For <b>CITY OF PALOS VERDES ESTATES and JEFF KEPLEY, in his representative capacity, serves as the Chief of Police Department of Defendant City of Palos Verdes Estates.</b></p> <p><a href="mailto:jacob.song@kutakrock.com">jacob.song@kutakrock.com</a></p>	<p>J. Patrick Carey, Esq.  <b>LAW OFFICE OF PATRICK CAREY</b>  1230 Rosecrans Avenue  Suite 270  Manhattan Beach, CA 90266  (310) 526-2237  (310) 356-3671 Fax  Attorney For <b>ALAN JOHNSTON individual member of LUNADA BAY BOYS aka JALIAN JOHNSTON</b></p> <p><a href="mailto:pat@patcareylaw.com">pat@patcareylaw.com</a></p>	<p>Aaron G. Miller, Esq.  <b>THE PHILIPS FIRM</b>  800 Wilshire Boulevard  Suite 1550  Los Angeles, CA 90017  (213) 244-9913  (213) 244-9915 Fax  Attorneys For <b>ANGELO FERRARA</b></p> <p><a href="mailto:amiller@thephillipsfirm.com">amiller@thephillipsfirm.com</a></p>
<p>Mark Fields, Esq.  <b>LAW OFFICES OF MARK C. FIELDS</b>  333 So. Hope Street  Suite 3500  Los Angeles, CA 90071  (213) 617-5225  (213) 629-2420 Fax  Attorney For <b>ANGELO FERRARA an individual member of LUNADA BAY BOYS and N.F. an individual member of LUNADA BAY BOYS</b></p> <p><a href="mailto:fields@markfieldslaw.com">fields@markfieldslaw.com</a></p>	<p>Peter R. Haven, Esq.  <b>HAVEN LAW</b>  1230 Rosecrans Avenue  Suite 300  Manhattan Beach, CA 90266  (310) 272-5353  (213) 477-2137 Fax  Attorneys For <b>MICHAEL RAY PAPAYANS</b></p> <p><a href="mailto:peter@havenlaw.com">peter@havenlaw.com</a></p>	<p>Dana Alden Fox, Esq.  <b>LEWIS BRISBOIS BISGAARD &amp; SMITH, LLP</b>  633 W. 5<sup>th</sup> Street  Site 4000  Los Angeles, CA 90071  (213) 580-3858  (213) 250-7900 Fax  Attorneys For <b>SANG LEE</b></p> <p><a href="mailto:Dana.Fox@lewisbrisbois.com">Dana.Fox@lewisbrisbois.com</a></p>